

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION EIGHT

In re E.B., a Person Coming Under the  
Juvenile Court Law.

B211531  
(Los Angeles County  
Super. Ct. No. JJ 14801)

THE PEOPLE,

Plaintiff and Respondent,

v.

E.B.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Robert Ambrose, Referee. Affirmed.

Gerald Peters, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Pamela C. Hamanaka, Assistant Attorney General, Scott A. Taryle and E. Carlos Dominguez, Deputy Attorneys General, for Plaintiff and Respondent.

\* \* \* \* \*

Appellant E.B., who was 16-years-old at the time the offenses were committed, was found to have uttered a criminal threat. Appellant also admitted evading a police officer in violation of the Vehicle Code and unlawfully driving a vehicle. He was declared to be a ward of the court and was ordered to be suitably placed in an open facility with a maximum term of confinement of three years nine months. On appeal, appellant challenges the sufficiency of the evidence to sustain the finding that he uttered a criminal threat. We affirm.

### **FACTS**

Appellant and Leorenoya Gamboa used to live in the same neighborhood. Appellant was friends with Gamboa's 14-year-old son; there was no ill will between the families.

On September 17, 2008, neighbors told Gamboa that appellant had broken into her house. Gamboa filed a report with the sheriff's department, identifying appellant as the burglar.

On September 18, 2008, Gamboa drove up her street in the company of her 16-year-old daughter and parked near her house. Appellant came up to the car and "flinched," meaning that he moved his upper body forward, as if he was going attack Gamboa. According to Gamboa, appellant said "he was going to f----- kill my [Gamboa's] kids." Gamboa took this as a threat because appellant was affiliated with a gang and he had just broken into her house.

Shortly after this incident, appellant's mother returned the items that had been taken from Gamboa's house.

### **DISCUSSION**

The elements of making a criminal threat in violation of Penal Code section 422 are (1) the defendant willfully threatened to commit a crime that will result in death or great bodily injury to another person; (2) the defendant made the threat with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out; (3) the threat was on its face and under the circumstances in which it was made so unequivocal, unconditional, immediate, and specific as to convey to the person

threatened, a gravity of purpose and an immediate prospect of execution of the threat; (4) the threat actually caused the person threatened to be in sustained fear for his or her own safety or for his or her immediate family's safety; and (5) the threatened person's fear was reasonable under the circumstances. (*In re George T.* (2004) 33 Cal.4th 620, 630.)

Appellant contends that the evidence is insufficient on the fourth and fifth elements.

When asked whether she had reason to believe the threat that appellant uttered, Gamboa answered yes. When asked to explain this answer, she stated that appellant was affiliated with a gang and that he had just broken into her house. This was direct evidence that goes to the fourth element: Gamboa testified that she felt threatened and she gave reasons for her belief. This evidence is unequivocal and uncontradicted. Not only is the testimony of a single witness sufficient to sustain a conviction (*In re Daniel G.* (2004) 120 Cal.App.4th 824, 830; Evid. Code, § 411), in this case we have the victim's very plausible testimony that she felt herself and her children threatened.

Gamboa's fear of what appellant might do was entirely reasonable. No one, confronted with an angry juvenile who had just burglarized one's house, could fail to be apprehensive at appellant's actions and the threat that he uttered. The threat was all the more acute because it was directed at Gamboa's children, and not merely at Gamboa herself.

We cannot agree with appellant that the record is "remarkably bare in setting forth the circumstances surrounding [E.G.'s] 'threat.'" Gamboa was confronted with a 16-year-old male who made a threatening motion, who uttered a frightening threat, who knew her children and where to reach them, who had just burglarized her house and who had gang affiliations. This scenario is redolent with threat and threatening themes; there is nothing "bare" about it.

Appellant contends that Gamboa's fear was only fleeting or transitory and that there is no evidence that she actually sustained fear. Quite apart from the fact that we are to draw inferences that support the judgment (*People v. Rayford* (1994) 9 Cal.4th 1, 23), we think it very implausible that a mother whose house has just been burglarized by a

gang-affiliated juvenile would not react with real fear and apprehension when that juvenile, obviously angry about being denounced to the police, threatens to kill her children. One would think that those fears would dissipate only when that juvenile was taken into custody.

The evidence is amply sufficient to support the judgment.

**DISPOSITION**

The judgment is affirmed.

FLIER, Acting P. J.

We concur:

BIGELOW, J.

BENDIX, J.\*

---

\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.